

City of Albuquerque

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Internal Audit Committee City of Albuquerque Albuquerque, New Mexico

Audit: Albuquerque Police Department Traffic Citation Procedures 02-132

FINAL

INTRODUCTION

The Office of Internal Audit performed a special audit of the Albuquerque Police Department (APD) – Traffic Citation Procedures. The audit was performed at the request of the City Administration. Included in this audit was a review of standard operating procedures for issuance of a traffic citation by a uniformed officer and analysis of a database consisting of *four hundred eleven* traffic citations. We had planned to perform an analysis of the combined traffic citation databases maintained by Albuquerque Metro Court and the Motor Vehicle Division (MVD) in Santa Fe. However, we found this information to be non-accessible; therefore, we were unable to perform the analysis.

This audit and its conclusions are based on a sample of transactions and do not represent all transactions at APD. The audit test work included interviews, tests of transactions, reviews of current procedures and surveys of traffic offenders. We completed our fieldwork on June 13, 2002. We have based this report on our examination of activities through the completion date of our fieldwork, and it does not reflect events after that date.

SCOPE

Our audit did not include an examination of all the functions, transactions, and activities related to traffic citation procedures. Our audit test work was limited to the following areas:

- Policies and Issues
- Traffic citation issuance process
- Compliance with APD Standard Operating Procedures, City Ordinances, and State Statutes

The audit was conducted in accordance with Government Auditing Standards, except Standard 3.33, which requires an external quality control review.

BACKGROUND

The New Mexico State Statutes Motor Vehicle Code and the City Of Albuquerque Traffic Code govern traffic violations. APD Officers are required to follow the provisions of these laws and must also follow APD procedural orders. Officers, using the New Mexico Uniform Traffic Citation, may charge a person with a moving violation as defined in the state statutes or City ordinances. Prior to July 8, 2002, the process for issuing a traffic citation, as identified in the APD procedural orders, was as follows:

"Officers issuing a notice to appear in court citation, penalty assessment citation, or warning citation will:

- 1. Complete the Information and the 'Description of the Offense' sections of the citation. Officers will not enter 'see report' in the 'Description of the Offense' section.
- 2. Have the violator sign the appropriate acknowledgment.
- 3. Give the violator a copy (bottom-blue border) of the citation and, for penalty assessments, an envelope addressed to MVD in Santa Fe.
- 4. Not accept custody or payment of any penalty assessment.
- 5. Issue a notice to appear if a violator declines to accept a penalty assessment notice.
- 6. Officers will not recommend that violators should take their case before a judge, or that the officer will recommend dismissal if certain conditions are met prior to any court hearing.
- 7. When citing a violator into court, the appearance date will be noted as 'ten calendar days from the date of the violation,' not five-working days. Should the tenth day fall on a weekend, or holiday, the appearance date will be the next workday.
- 8. Provide the violator with a copy of the Metropolitan court brochure that explains the process for handling citations, and/or other information upon request.
- 9. Release the violator."

APD Officers issue a notice to appear in court citation for certain offenses, and when a driver does mt accept a penalty assessment notice. In Bernalillo County, drivers are cited into the Bernalillo County Metropolitan Court (Metro Court). According to summary information provided by Metro Court, for calendar year 2001:

- 65,504 traffic citations were paid at the Metro Court Window.
- C 47,074 traffic citations had a court date set in lieu of paying at the Metro Court Window.
- C 45,762 of the 65,504 traffic citations paid at the Metro Court Window were for fines of \$25 or less.
- C 29,978 of the 47,074 traffic citations handled with a court dates were for fines of \$25 or less (excluding Court Costs).
- C The minimum Court Cost is \$20.

We were unable to obtain information on the number of citations issued by APD officers that resulted in Penalty Assessment payments made directly to the MVD.

FINDINGS

The purpose of an internal audit is to identify changes in the auditee's activities which would improve its effectiveness, efficiency and compliance with administrative policies and applicable rules and regulations. Therefore, the auditee's activities which appear to be functioning well are not usually commented on in audit reports. The following findings concern areas that we believe could be improved by the implementation of the related recommendations.

1. <u>APD SHOULD ENSURE THAT ALL OFFICERS WHO ISSUE TRAFFIC CITATIONS</u> NOT INFLUENCE THE DECISION OF THE TRAFFIC OFFENDERS.

We performed test work on four hundred eleven traffic citations that were issued by eighty-two Officers. Ten of the eighty-two Officers routinely scratch out the penalty assessment option when they issue traffic citations with the court appearance box checked. Three of these ten Officers had combined overtime of 881.75 hours for total Metro Court overtime compensation of \$26,396.90 for calendar year 2001, and 349.75 hours for total Metro Court overtime compensation of \$10,906.51 as of the pay period ending May 11, 2002 for calendar year 2002. The following is a detailed description of the individual Officers:

	2001		2002 (1)	
	Hours	Dollars	Hours	Dollars
Officer A	625.25	\$19,041.48	271.25	\$8,572.96
Officer B	137.00	3,816.57	44.50	1,300.29
Officer C	119.50	3,538.85	34.00	1,033.26
Total	881.75	\$26,396.90	349.75	\$10,906.51

(1): As of the pay period ending May 11, 2002.

These three officers earned Metro Court overtime hours and payments in excess of the average amount earned by officers. The average overtime for the eighty-two officers, mentioned above, was 61.87 hours and \$1,653.88 in 2001 and 34.07 hours and \$893.45 as of the pay period ending May 11, 2002. Metro court overtime consists of the Officers' time being spent in one of three violation categories: (1) traffic, (2) criminal, and (3) domestic violence. We could not identify the specific category for the hours listed above.

There are some legitimate reasons for crossing out information on a traffic citation, such as to make it easier to identify the action to be taken by the violator. Also, some court appearances are mandatory. However, it is possible that a few officers may have been using Metro Court appearance overtime as a way of supplementing their income.

A survey was sent to one hundred ninety traffic offenders asking about the procedures followed by the arresting officers. We received 32 completed surveys with responses. According to those responses:

- C Six indicated that the Officer influenced their decision on whether to pay citation penalty assessment or appear in court.
- C Twenty-six indicated there was no influence.
- C Five of the six chose to appear in court rather than pay the penalty assessment.
- C Two of the six citations had the dollar amount of the penalty assessment listed even though the traffic offender chose to appear in court.
- C Officers A and B each issued one of the six citations.

The following are quotes of actual replies from individuals responding to our survey who indicated that the Officers influenced their decision to appear in court instead of paying the penalty assessment:

Response A: "I don't remember his exact words, but he advised me to appear in court rather than pay the ticket amount, and he never even told me how much it would cost to pay the penalty assessment."

Response B: "Suggested Strongly I go to court & plead not guilty . . . "

In addition to the quotes above, there were also some positive replies from individuals responding to our survey:

Response C: "Policeman was very kind. It could have been much worse."

Response D: "She gave me a warning only. Officer was very polite."

APD does have Procedural Orders that clearly state that Officers are not suppose to make recommendations when issuing traffic citations. However, APD Management personnel stated that the Officers have no one monitoring them when they make traffic stops to make sure the procedures are being followed.

According to section 2-18-3 of the APD procedural orders, "Officers will not recommend that violators should take their case before a judge, or that the officer will recommend dismissal if certain conditions are met prior to any court hearing." Also, according to section 2-18-18 of the APD procedural orders, "Officers will not mark out or write over information on the face of a citation . . ."

A traffic offender, who was stopped by an APD Officer for speeding 40 in a 30 mile per hour zone, asked the Officer if he would make the citation a warning. He stated, "We let the judge decide that." He then asked the traffic offender if she wanted to go to court. When the traffic offender went to court, the judge told her that the officer had decided to make the citation a warning. This behavior resulted in wasted time for both the traffic offender and the judge. It also resulted in Metro Court overtime pay for the Officer.

RECOMMENDATION

APD should ensure that all Officers who issue traffic citations not influence the decision of the traffic offenders. Furthermore, APD should ensure that all Officers follow the APD procedural orders. APD should implement review procedures to identify indicators of potential attempts to influence traffic offenders.

EXECUTIVE RESPONSE FROM APD

"The APD concurs with the finding that personnel should not attempt to influence the decision of traffic violators. APD requires that officers provide traffic violators with a copy of the Metropolitan Court Brochure that clearly identifies the options and procedures for handling of traffic citations. Additionally, recent changes in the process for contesting traffic citations now have the violator attend a traffic arraignment hearing in which the presence of the officer is not necessary. There are only a few exceptions where the officer is required for traffic case settings. The above new procedure should alleviate any appearance of the officer attempting to influence the driver's decision about handling the citation."

2. APD SHOULD ENSURE THAT ALL OFFICERS RESPONSIBLE FOR ISSUING TRAFFIC CITATIONS PROVIDE OFFENDERS WITH A COPY OF THE METROPOLITAN COURT BROCHURE.

The Metropolitan court brochure (brochure) is not always distributed to offenders when a traffic citation is issued. We sent a survey to one hundred ninety traffic offenders in which thirty-two responded. Only fifteen of thirty-two offenders (47 percent) stated in their response that they received a copy of the brochure.

The brochure gives offenders guidelines of what to do when they receive a traffic citation. Furthermore, it gives them information about the following: (1) Traffic citations, (2) Citations that can be dismissed, (3) Insurance citations, (4) Suspended license, (5) Keeping traffic citations off your driving record, (6) Court policies, and (7) Common violations and fines.

According to Section 2-18-3 of the APD procedural orders, "Officers issuing a notice to appear in court citation, penalty assessment citation, or warning citation will: . . . Provide the violator with a copy of the Metropolitan court brochure that explains the process for handling citations, and/or other information upon request." It appears that APD Officers do not always follow the procedural orders that require the distribution of the brochure. If APD Officers do not distribute the brochures, traffic offenders may not be aware of the various options available to them when they receive a citation. Furthermore, traffic offenders might be misinformed.

The APD officers patrol alone and therefore no one is monitoring them while they are in the field. Without a monitoring process, Officers may continue to deviate from APD

procedures for an extended period of time. The Officers may do what is easiest rather than following proper procedures. Also, if deviations are not detected, there are no consequences for failing to follow procedures.

The process for handling traffic citations in Bernalillo County changed as of July 8, 2002. As a result, it is even more important that traffic offenders be provided the brochure that explains the various options and how to resolve a traffic citation.

RECOMMENDATION

APD should ensure that all Officers responsible for issuing traffic citations provide offenders with a copy of the Metropolitan court brochure. APD should monitor the Officers activities on a periodic basis to ensure that proper procedures are being followed.

EXECUTIVE RESPONSE FROM APD

"The APD agrees that compliance with this procedure is imperative to the success of the traffic arraignment program. APD supervisors will conduct spot audits of the traffic citation issuing process. Supervisors will ensure that personnel have the brochures with them while on duty and that traffic violators are provided with a copy of the brochure. Additionally, APD meets regularly with Metropolitan Court staff and will ask for feedback about APD officers' compliance with the above procedure."

3. <u>APD SHOULD ENSURE THAT EVERY TRAFFIC CITATION IS ACCOUNTED</u> FOR.

The Traffic Safety Section of APD does not track citation books by Officer instead the books are randomly handed out without a record of which Officer each specific book was given to. According to APD Traffic Safety Section management (management), each Officer in the Section uses at least one book of citations per day. Management feels that since so many citation books are used, it is too difficult to track the citations on a log. However, if citation books are not tracked by Officer, there will be no way to determine if all issued citations have been turned in at the end of each shift. The New Mexico State Statutes state:

- C Section 66-8-132 Records of citations issued, "The chief administrative officer of every state and local traffic-enforcement agency shall issue, keep a record and require a receipt for each serially numbered citation issued to individual officers."
- C Section 66-8-134 Illegal cancellation; audit of citation records, "Every record of uniform traffic citations required in the Motor Vehicle Code shall be audited monthly by the appropriate fiscal officer of the governmental agency to which the trafficenforcement agency is responsible....Each fiscal officer shall publish an annual summary of all traffic violations notices issued by the traffic-enforcement agency."

APD records management personnel indicated that APD is not in compliance with section 66-8-134 of the New Mexico State statutes. According to APD management it is not clear what is expected by the State to be in compliance with this section.

There are five area commands within APD in addition to the Traffic Safety Section. Each of the area commands requires Officers who are issued a book of citations to sign for and document which citations they are issued. We visited three of the area commands in which logs are maintained for issued traffic citations. A review of the logs indicated that when citations are issued they are not always distributed in any sort of a numerical order. Also, even though the log is filled out, Officers do not always sign their name/initials to indicate that they have actually received the citations. It appears that there is a lack of control over the distribution of traffic citation books at the area commands.

A review of our database that we compiled from copies, of issued citations supplied to us by APD, indicated that several citations have not been turned in. For instance, our database shows several different series of consecutive citations turned in by various Officers. However, some of the citations within some of the series are missing. There were 34 citations that could not be accounted for in the series of citations included in our sample. If any of the missing citations were voided, they should have been turned in along with the issued citations at the end of each Officer's shift.

According to APD procedural order 2-18-18 Issuing a Citation part C, "Officers will turn in copies of issued or voided citations to a supervisor at the end of their shift." Part D of the 2-18-18 states:

"When a traffic, misdemeanor or parking citation is to be voided, the following procedures shall be followed:

1. "All copies, including the violators', shall be turned in together (stapled) with the word 'VOID' written across the citation.

- 2. "On the citation the voiding officer shall write a brief explanation for the action and then initial it.
- 3. "If all copies of the citation are not available, a memo explaining the circumstances of the voided citation from the issuing offer's supervisor will be attached to the remaining copies. The memo and copies will then be forwarded to Metro Court (Traffic and Misdemeanor citations). . ."

RECOMMENDATION

APD should ensure that every traffic citation is accounted for. APD should maintain logs with a record of each traffic citation book issued to an Officer. The citations should be reviewed as they are turned in to ensure that none are missing and that any voided citations are properly explained.

The Legal department should get clarification on what the State expects as far as New Mexico State Statute 66-8-134 is concerned.

EXECUTIVE RESPONSE FROM APD

"APD will ensure that traffic citations are kept in a secure location and issued only by a supervisor who will properly document the issuance of the citation book(s) to the officer. All citations are to be turned in at the end of each shift and reviewed by a sergeant for legibility, correctness and content. All voided citations will also be turned in to the appropriate sergeant. All rejected citations are now returned to the Deputy Chief of the Field Services Bureau and in turn forwarded to the appropriate commander of the officer for review, correction, and if necessary, retraining. A response is required back to the Deputy Chief explaining the reason for the error and the corrective action taken."

EXECUTIVE RESPONSE FROM LEGAL

"The issue concerning maintaining records of citations issued was identified over two years ago by APD. To address this issue, the statewide Uniform Traffic Citation was redesigned to provide for a barcode in the lower right hand corner of the citation. The reason for this barcode was to make it possible for APD to effectively maintain an accurate record of the 5,000 traffic citations being written weekly in accordance with Section 66-8-134(B). Furthermore, a request has been made to ISD to develop a computer program that would allow for an accurate account of

all citations issued. What was requested is that, when an officer receives his/her uniform citation book the issuer would enter the officer's man number and scan the first bar code from the first citation contained in the book. This would then result in the computer making a record of the book being assigned, as well as, a receipt for each serially numbered citation issued to an individual officer in accordance with Section 66-8-132. Then the officer would, at the end of each shift, go to a computer at his/her substation and scan each citation he/she issued by indicating whether or not a fine was paid to Santa Fe or the citation was sent to Metropolitan Court. Not only would this allow for a daily audit by the police department of traffic citations, it would allow for a monthly audit of traffic citations by the appropriate fiscal officer in accordance with 66-8-134."

4. <u>APD SHOULD ENSURE THAT OFFICERS COMPLETE TRAFFIC CITATIONS AND ALL INFORMATION IS LEGIBLE ON THE FACE OF THE CITATION.</u>

Traffic citations are not always filled out completely by the issuing APD Officer. Also, traffic citations are sometimes difficult to read. We found seven traffic citations in our database of four hundred ninety that were missing information:

- Five did not indicate whether the citation was a penalty assessment, court appearance, or warning.
- C One did not list the statute or ordinance violated.
- C One did not have the Officer's name.

Traffic citations might not be filled out completely due to the Officers being in a hurry, and rushing through the process. This might also be the reason some of the citations are difficult to read.

Offenders may become confused if traffic citations are missing information, or are difficult to read. Additionally, when information from the citations is entered into MVD records, it could be entered incorrectly if it is difficult to read. According to Section 2-18-18 of the APD procedural orders, "Officers will . . .fill in all appropriate spaces on the face of the citation . . ." According to section 66-8-128 of the New Mexico State Statutes, "The department shall prepare a uniform traffic citation containing at least the following information: . . .; the date and time of arrest; the arresting officer's signature and identification number; and the conditions existing at the time of the violation....The department shall prescribe how the uniform traffic citation form may be used as a warning notice."

The Uniform Traffic Citations being used in Bernalillo County were redesigned and made larger. The larger citation should help with legibility, however it will still be up to the issuing Officer to complete all of the required information.

The traffic citations are currently completed by hand. In the future as APD develops its information technology abilities it may be possible to generate citations on site using the computers in the Officers' vehicles.

RECOMMENDATION

APD should ensure that all Officers responsible for issuing citations completely list all information in a legible manner on the face of the citation. This could be done by having the Officer who reviews citations at the end of each shift return any incomplete citations to the issuing Officer. The issuing Officer would be required to fill in any blank areas on the citation before the reviewing Officer would accept it.

APD should consider developing a system where the Officer can input the citation to a universal database that can then be printed, and given directly to the traffic offender on the scene.

EXECUTIVE RESPONSE FROM APD

"All paperwork to include citations are turned in at the end of the officer's shift and reviewed by a sergeant. Sergeants have been instructed to more closely review the traffic citations issued by officers for completeness, legibility and content. Each week all rejected citations are returned to the Deputy Chief of the Field Services Bureau and in turn forwarded to the appropriate commander of the officer for review, correction and if necessary, retraining. A response is required back to the Deputy Chief explaining the reason for the error and the corrective action taken."

5. <u>APD SHOULD MANAGE OFFICER DISCRETION TO AVOID THE APPEARANCE OF UNEQUAL TREATMENT.</u>

APD Officers are not always consistent when issuing traffic citations for certain violations. It appears that APD Officers have a high degree of flexibility when issuing a warning versus a court appearance or penalty assessment traffic citation.

A review of our database, consisting of copies of citations from APD, indicated that there is very little consistency for citations issued for some traffic offenses.

Some officers issue a citation for an offense, others issue a warning. Each officer may not be consistent in the handling of an offense. For example, we noted one instance in which the same Officer at the same location on the same day at the same time issued traffic citations to two different individuals for the same violation (Speeding 47 mph in a 30 zone). One of the individuals received a Court Appearance and the other received a Warning.

If there is a lack of consistency among APD Officers when issuing traffic citations, it could give the appearance that some violators are not treated fairly.

RECOMMENDATION

APD should manage Officer discretion to avoid the appearance of unequal treatment.

EXECUTIVE RESPONSE FROM APD

"All Police Officers must have a limited amount of discretion in order to effectively do their jobs. The primarily purpose of police officers conducting traffic enforcement is to change poor/improper driving behavior. Often during the course of the traffic stop the driver may be able to satisfactory explain the reason for the observed driving behavior or convince the officer that the objective has been obtained and the improper driving behavior has corrected just by the officer stopping the driver and brining the violation to the attention of the driver. Officers have always had the ability to issue a written or oral warning. All personnel are continuously reminded about remaining fair and impartial during the performance of all of their duties."

6. APD SHOULD ENSURE THAT OFFICERS TURN IN ALL ISSUED TRAFFIC CITATIONS TIMELY SO THAT METRO COURT RECEIVES THEM WITHIN THE 48-HOUR CRITICAL TIME PERIOD.

APD Officers are not always timely about turning in traffic citations at the end of each shift. It appears the APD Officers do not always following procedural orders. According to APD records management personnel, after an Officer issues a court appearance traffic citation there is a critical time period of 48 hours for the citation to be turned in to Metro

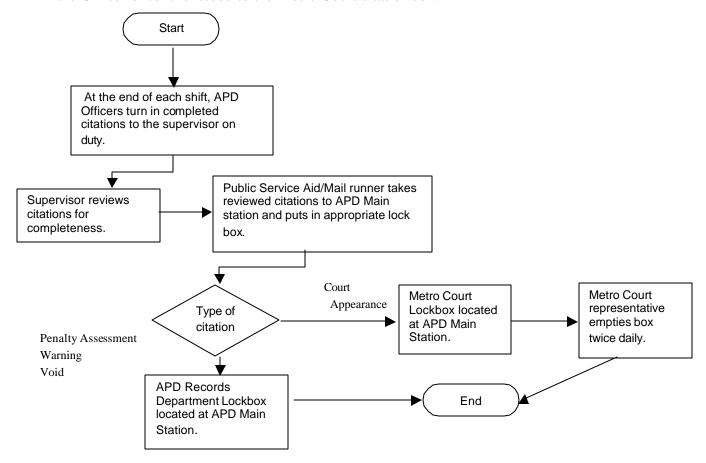
Court. If the citation is not turned in within the critical time period there is a chance that it might be dismissed by a Metro Court judge.

APD records management provided us with reports received from Metro Court management that show turn in time for court appearance traffic citations. These reports show three different weeks in which a portion of the total court appearance citations processed by Metro Court were already three days or more old when they were received:

- C April 4-10, 2002 1,719 of 3,006 citations (57 percent).
- C February 13-19, 2002 942 of 1,964 citations (48 percent).
- C January 30 February 5, 2002 793 of 1,807 citations (44 percent).

This information shows that as the year has progressed, the number of citations turned in after 48 hours has increased: (1) From January to February by 4 percent, (2) February to April by 9 percent, (3) Overall the increase has been by 13 percent. Citations were turned in up to 46 days after they were issued.

The following flow chart shows the process of how a court appearance citation gets from the Officer once it is issued to the Metro Court citation box:



We randomly selected a sample of ten court appearance citations from the Metro Court citation box. Our test work indicated that four of the ten citations sampled were not turned in timely. According to section 2-18-18 of the APD procedural orders, "Officers will turn in copies of issued and or voided citations to a supervisor at the end of their shift."

RECOMMENDATION

APD should develop procedures to ensure that Officers turn in all issued traffic citations, especially for court appearances, after each shift to ensure that Metro Court receives them within the 48-hour critical time period. APD should review the citations for timeliness to determine and address the cause of citations being turned in late.

EXECUTIVE RESPONSE FROM APD

"All paperwork to include citations are turned in at the end of the officer's shift and reviewed by a sergeant. Sergeants have been instructed to more closely review the traffic citations issued by officers with a concentration on timeliness. A recent review of why the citations are not being received by court personnel showed that some citations were being placed in the incorrect drop box, i.e. penalty assessment drop box, resulting in a delay or being forwarded to the APD Records Division instead of being placed in the drop box. Officers were also failing to turn in citations written while off-duty (usually going to and from court) in a timely manner. APD will be issuing a Special Order to all personnel outlining the proper procedures for the routing process for all traffic citations."

CONCLUSIONS

By implementing these recommendations, the Traffic Citation Process of the Albuquerque Police Department will be more effectively and efficiently administered.

We appreciate the assistance and cooperation of the personnel of the Albuquerque Police Department.

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REVIEWED and APPROVED: APPROVED FOR PUBLICATION:

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SPECIAL AUDIT REPORT

OF

ALBUQUERQUE POLICE DEPARTMENT TRAFFIC CITATION PROCEDURES

REPORT NO. 02-132



CITY OF ALBUQUERUQE OFFICE OF INTERNAL AUDIT

